

**RULES
OF
TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT
DIVISION OF BUSINESS AND INDUSTRY SERVICES**

**CHAPTER 0500-5-2
ENTERPRISE DEMONSTRATION PROJECT**

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0050-5-2-.01 PURPOSE AND SCOPE.

- (1) In 1998 Tennessee Public Acts, Chapter 1135, Section 41, Item 46, a sum of one million five hundred thousand dollars (\$1,500,000) was designated for the purpose of demonstrating the beneficial impact (as defined in Rule 0500-5-2-.02(1)) of capital enhancement by increasing the amount of capital available to small and minority business enterprises (as defined in Rule 0500-5-2-.02(6) and (8)) in Tennessee. Such funds shall be made available as a grant to a single qualifying organization (as defined in Rule 0500-5-2-.02(7)) and shall be combined with a minimum of one to one matching funds (as defined in Rule 0500-5-2-.02(5)), to be loaned to small and minority business enterprises (as defined in Rule 0500-5-2-.02(6) and (8)).
- (2) This Enterprise Demonstration Project shall be designated as a revolving loan fund program. As principal and interest is repaid to the qualifying organization (as defined in Rule 0500-5-2-.02(7)), the principal amount shall be added to the fund balance to be used by the qualifying organization (as defined in Rule 0500-5-2-.02(7)) for new loans to other small and minority business enterprises (as defined in Rule 0500-5-2-.02(6) and (8)) in Tennessee.
- (3) A maximum of two percent (2%) of the outstanding balance of the program funds may be utilized annually by the qualifying organization (as defined in Rule 0500-5-2-.02(7)) to pay the administrative expenses incurred to administer this program.
- (4) Loans made with program funds are subject to reviews by the Department of Economic and Community Development.
- (5) The qualifying organization (as defined in Rule 0500-5-2-.02(7)) awarded this Enterprise Demonstration Project grant must provide to the Department of Economic and Community Development annual audited financial statements prepared by an independent accounting firm as well as an annual report on the beneficial impact (as defined in Rule 0500-5-2-.02(1)) of capital enhancement on small and minority business enterprises (as defined in Rule 0500-5-2-.02(6) and (8)).
- (6) The award of this Enterprise Demonstration Project grant is to be determined by a majority vote from the Loan Committee (as defined in Rule 0500-5-2-.02(4)) of the Department of Economic and Community Development. The decision will be based on the proposals submitted by qualifying organizations (as defined in Rule 0500-5-2-.02(7)).

Authority: T.C.A. §4-3-702 and “Public Acts of 1998”, Ch. 1135, §41, Item 46. **Administrative History:** Original rule filed February 23, 1999; effective June 28, 1999.

0500-5-2-.02 DEFINITIONS. The following definitions shall apply to these rules.

- (1) Beneficial Impact - The beneficial impact of the program shall be measured by the number of jobs created, increases in per capita income and the amount of capital investment in Tennessee.
- (2) Commissioner - The Commissioner of the Department of Economic and Community Development.
- (3) Contract - A legally binding agreement between the Department of Economic and Community Development and the qualifying organization that outlines the requirements for the project. The contract shall include the Department of Economic and Community Development's right to audit loans made with project funds; reporting requirements; conflict of interest provision; nondiscrimination provision; and such other provisions as the Commissioner deems to be necessary.
- (4) Loan Committee - The loan committee of the Department of Economic and Community Development, which is made up of 6 members of the department with positions of Assistant Commissioner or higher.
- (5) One to One Matching Funds - The qualifying organization shall provide a match of one million five hundred thousand dollars (\$1,500,000) to bring the Enterprise Demonstration Project funds to three million dollars (\$3,000,000). The matching funds shall be comprised of cash or securities that are easily convertible to cash.
- (6) Minority Business - A business which is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of such business, and who is impeded from normal entry into the economic mainstream because of race, religion, sex, or national origin, such business having annual gross receipts of less than four million dollars (\$4,000,000) and further, being located in and maintaining operations in Tennessee during the term of the loan made with funds from this program.
- (7) Qualifying Organization - Any organization licensed and regulated by the Federal Small Business Administration as a 301(d) Small Business Investment Company, also known as a Specialized Small Business Investment Company.
- (8) Small Business - A business with annual gross receipts of less than four million dollars (\$4,000,000) that is located in and maintains operations in Tennessee during the term of the loan made with funds from this program.

Authority: T.C.A. §4-3-702 and "Public Acts of 1998", Ch. 1135, §41, Item 46. **Administrative History:** Original rule filed February 23, 1999; effective June 28, 1999.

0500-5-2-.03 PROGRAM ADMINISTRATION.

- (1) The organization awarded the Enterprise Demonstration Project grant shall use program funds to make loans to small and minority business enterprises for the purpose of starting and expanding their business. The organization shall disburse the funds across all areas of the State of Tennessee, thereby expanding opportunities for small and minority businesses throughout Tennessee. The qualifying organization shall provide a monthly written report to the Department of Economic and Community Development on the amount of funds disbursed during the period, the amount of interest and principal repaid during the period, and the balance of the original \$1.5 million in program funds. The report shall also list the companies or individuals receiving loans with program funds along with, for each company, the original principal amount, the remaining principal owed, the monthly payment amount broken down into principal and interest, the current payment due date, the amount and date of the last payment, and such other information as the Commissioner deems necessary.

(Rule 0500-5-2-.03, continued)

Authority: T.C.A. §4-3-702 and “Public Acts of 1998”, Ch. 1135, §41, Item 46. **Administrative History:** Original rule filed February 23, 1999; effective June 28, 1999.

0050-5-2-.04 CRITERIA FOR LOANS.

- (1) When evaluating applications for loans with Enterprise Demonstration Project funds, the qualifying organization shall follow prudent lending practices. The following additional criteria shall apply:
 - (a) Maximum Loan Amount. The maximum loan amount shall be three hundred thousand dollars (\$300,000).
 - (b) Minimum Loan Amount. The minimum loan amount shall be twenty-five thousand dollars (\$25,000).
 - (c) Loan Interest Rate. The interest rate that may be charged on loans made with program funds may be a fixed rate or a variable rate, provided that any such variable interest rate shall not exceed the maximum rate or fall below the minimum rate, as hereinafter defined, at any time.
 - (d) Maximum Loan Interest Rate. The maximum interest rate that may be charged on loans made with program funds is 2% over the “Prime Rate” as published in the Wall Street Journal on the day the loan is made.
 - (e) Minimum Loan Interest Rate. The minimum interest rate that may be charged on loans made with program funds is 2% below the “Prime Rate” as published in the Wall Street Journal on the day the loan is made.
 - (f) Late Charges. Late charges, as permitted by Tennessee law, may be imposed.
 - (g) Term. The maximum permitted repayment period for a loan is 10 years.
 - (h) Collateral and Security. Both business and personal collateral may be taken as security for a loan and may include real property, tangible personal property, accounts receivable, certificates of deposit, and other intangibles. The loans shall be secured with collateral with the maximum amount of coverage possible. A standard should be for the loan to be fully secured with collateral. Assets acquired with loan proceeds are generally expected to secure the loan.
 - (i) Guaranty Agreement. Personal guarantees from all principal owners shall be obtained. Principal owners are those who have a twenty percent (20%) or more ownership interest in the company.
 - (j) Title Insurance. A loan policy for title insurance is required on all real estate taken as collateral. The loan policy must be issued by a title insurance company for an amount equal to the maximum principal amount of the loan and shall insure that on the date of closing the qualifying organization’s lien on the property is valid and enforceable and free of other liens and encumbrances other than those permitted and that title to the property is vested in the appropriate party.
 - (k) Appraisals. An appraisal must be obtained by a certified appraiser on all real estate taken as collateral to determine the true market value of the property.
 - (l) Insurance. Hazard and casualty insurance is required on all real estate and equipment taken as collateral. If the property is located in a flood zone, flood insurance is required also.

(Rule 0500-5-2-.04, continued)

- (m) Other. A survey or environmental study may be required on real estate taken as collateral. Any suspicions of easements, encroachments, or environmental problems shall require a survey and/or environmental study.

Authority: T.C.A. §4-3-702 and “Public Acts of 1998”, Ch. 1135, §41, Item 46. **Administrative History:** Original rule filed February 23, 1999; effective June 28, 1999.

0500-5-2-.05 APPLICATION REQUIREMENTS.

- (1) Applicants for the Enterprise Demonstration Project must submit a proposal by May 1, 1999 to the Department of Economic and Community Development to be considered for the program. The proposal should at a minimum consist of a description of how the qualifying organization intends to use program funds to accomplish the purposes of the Enterprise Demonstration Project, a description of the organization with management profiles, plans for providing matching funds, proof of classification as a 301(d) Small Business Investment Company, a plan for representation throughout Tennessee, and a brief description of the organization’s lending practices and requirements.

Authority: T.C.A. §4-3-702 and “Public Acts of 1998”, Ch. 1135, §41, Item 46. **Administrative History:** Original rule filed February 23, 1999; effective June 28, 1999.

0500-5-2-.06 AWARD OF ENTERPRISE DEMONSTRATION PROJECT.

- (1) The award of the Enterprise Demonstration Project will take place after the effective date of these rules, at which time the qualifying organization will enter into a contract with the Department of Economic and Community Development to administer the project.

Authority: T.C.A. §4-3-702 and “Public Acts of 1998”, Ch. 1135, §41, Item 46. **Administrative History:** Original rule filed February 23, 1999; effective June 28, 1999.

0500-5-2-.07 RULES OF PROCEDURE.

- (1) For Rules of Procedure for Hearing Contested Cases see Rules of the Secretary of State, Chapter 1360-1-7.

Authority: T.C.A. §4-3-702 and “Public Acts of 1998”, Ch. 1135, §41, Item 46. **Administrative History:** Original rule filed February 23, 1999; effective June 28, 1999.